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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,914	09/05/2003	Michael C. Garrett	7595/79330	8640
22342 7590 11/04/2008 FITCH EVEN TABIN AND FLANNERY 120 SOUTH LA SALLE STREET SUITE 1600 CHICAGO, IL 60603-3406				
EXAMINER				
WU, EUGENE TONG				
ART UNIT		PAPER NUMBER		
3766				
MAIL DATE		DELIVERY MODE		
11/04/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/656,914

Applicant(s)

GARRETT, MICHAEL C.

Examiner

EUGENE T. WU

Art Unit

3766

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 2, 7-9 and 13-29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-6 and 10-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 May 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)
- Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This Office Action is in response to:

08/18/08 - Applicant response to restriction.
07/18/08 - Restriction requirement.
04/09/08 - Applicant response to restriction.
01/31/08 - Restriction requirement.

Election/Restrictions

1. Applicant's election without traverse of Group 1, Species B, claims 1, 3-6, 10-12 in the reply filed on 08/18/08 is acknowledged.
2. Claims 2, 7-9, 13-29 withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention/species, there being no allowable generic or linking claim.

Election was made **without** traverse in the reply filed on 08/18/08.

Specification

3. The disclosure is objected to because of the following informalities:
 - a. Paragraph 30: The reference numbers in the specification do not match the numbers in Figure 6.
 - b. Paragraphs 33-36: The reference numbers in the specification do not match the numbers in Figure 2. The numbers in Paragraphs 33-36 are also the same numbers as Paragraph but identifying different parts.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 3766

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 3-6, 10, 11 rejected under 35 U.S.C. 102(b) as being anticipated by Braun (US 6,050,940).

Regarding claim 1, Braun discloses the same invention as claimed, including providing at least two signal inputs (Figures 3, 9), providing an error correction parameter and combining at least one signal with the error correction parameter (Col. 7, lines 38-46), and amplifying the resultant signal (Col. 7, lines 23-30).

Regarding claim 3, Braun discloses the error correction parameter comprises a low frequency offset error correction parameter (Col. 7, lines 43-52; Table 1).

Regarding claim 4, Braun discloses the low frequency offset error correction parameter corresponds to a frequency of less than 1 Hz (Table 1).

Regarding claim 5, Braun discloses amplifying the signal by a gain of at least 50 (Col. 7, line 26).

Regarding claim 6, Braun discloses providing an error correction parameter comprises processing an earlier amplified resultant signal (Col. 7, lines 39-41).

Regarding claim 10, Braun discloses processing an earlier resultant signal in a frequency selected manner (Col. 8, lines 47-61).

Regarding claim 11, Braun discloses high frequency passage (Col. 8, lines 47-61).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary

Art Unit: 3766

skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 12 rejected under 35 U.S.C. 103(a) as being unpatentable over Braun (US 6,050,940) as applied to claim 1, and further in view of Gudaitis (US 5,392,784).

Regarding claim 12, Braun as applied to claim 1 is described above. Braun does not disclose the specifics of the circuitry. However, Gudaitis teaches combining an error correction parameter with both signal inputs (Figures 1-4; abstract), in order to reduce measurement error (abstract; Col. 1). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to include the combining the error correction parameter with a second signal as taught by Gudaitis with the invention of Braun, in order to reduce measurement error.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Alkawaas (US 2002/0045836) shows a circuit for measuring EKG.
- b. Baru Fassio (US 6,996,435) shows circuits for measuring biopotentials.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to EUGENE T. WU whose telephone number is (571)272-3109. The examiner can normally be reached on M-F: 9 AM - 5 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl H. Layno can be reached on (571)272-4949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Carl H. Layno/
Supervisory Patent Examiner, Art Unit 3766

ETW
10/30/08